

Walsh Warren Wicker  
Warner Whitehouse Wyden

## NAYS—19

Barrasso Johanns Rubio  
Burr Johnson (WI) Scott  
Coburn Lee Shelby  
Crapo Moran Thune  
Cruz Portman Vitter  
Enzi Risch  
Inhofe Roberts

## NOT VOTING—4

Boozman Manchin  
Isakson Rockefeller

The nomination was confirmed.

# NOMINATION OF JAMES ALAN SOTO TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA—Continued

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate prior to a vote on the Soto nomination.

Mr. LEAHY. Madam President, I ask unanimous consent that all time be yielded back.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The question is, Will the Senate advise and consent to the nomination of James Alan Soto, of Arizona, to be United States District Judge for the District of Arizona?

Mr. BLUNT. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Georgia (Mr. ISAKSON), and the Senator from Kansas (Mr. MORAN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 155 Ex.]

## YEAS—93

Alexander Cornyn Inhofe  
Baldwin Crapo Johanns  
Barrasso Cruz Johnson (SD)  
Begich Donnelly Johnson (WI)  
Bennet Durbin Kaine  
Blumenthal Enzi King  
Blunt Feinstein Kirk  
Booker Fischer Klobuchar  
Boxer Flake Landrieu  
Brown Franken Leahy  
Burr Graham Lee  
Cantwell Graham Levin  
Cardin Grassley Markey  
Carper Hagan McCain  
Casey Harkin McCaskill  
Chambliss Hatch McConnell  
Coats Heinrich Menendez  
Cochran Heitkamp Merkley  
Collins Heller Mikulski  
Coons Hirono Murkowski  
Corker Hoeven Murphy

Murray Sanders Toomey  
Nelson Schatz Udall (CO)  
Paul Schumer Udall (NM)  
Portman Scott Vitter  
Pryor Sessions Walsh  
Reed Shaheen Warner  
Reid Shelby Warren  
Risch Stabenow Whitehouse  
Roberts Tester Wicker  
Rubio Thune Wyden

## NAYS—1

Coburn

## NOT VOTING—6

Ayotte Isakson Moran  
Boozman Manchin Rockefeller

The nomination was confirmed.

## CLOTURE MOTION

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided prior to the vote to invoke cloture on the Costa nomination.

Mr. REID. Madam President, I yield back all time.

The PRESIDING OFFICER. Without objection, all time is yielded back.

The cloture motion having presented under rule XXII, the Chair directs the clerk to report the motion.

The assistant bill clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Gregg Jeffrey Costa, of Texas, to be United States Circuit Judge for the 5th Circuit.

Harry Reid, Patrick J. Leahy, Robert Menendez, Christopher Murphy, Elizabeth Warren, Christopher A. Coons, Angus S. King, Jr., Richard Blumenthal, Jeff Merkley, Cory A. Booker, Amy Klobuchar, Dianne Feinstein, Richard J. Durbin, Tom Udall, Sheldon Whitehouse, Charles E. Schumer, Edward J. Markey.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on the nomination of Gregg Jeffrey Costa, of Texas, to be the United States Circuit Judge for the Fifth Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Georgia (Mr. ISAKSON), and the Senator from Kansas (Mr. MORAN).

The PRESIDING OFFICER. (Ms. WARREN.) Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 36, as follows:

[Rollcall Vote No. 156 Ex.]

## YEAS—58

Baldwin Gillibrand Murray  
Begich Hagan Nelson  
Bennet Harkin Pryor  
Blumenthal Heinrich Reed  
Booker Heitkamp Reid  
Boxer Hirono Sanders  
Brown Johnson (SD) Schatz  
Cantwell Kaine Schumer  
Cardin King Shaheen  
Carper Klobuchar Stabenow  
Casey Landrieu Tester  
Collins Leahy Udall (CO)  
Coons Levin Udall (NM)  
Cornyn Markey Walsh  
Cruz McCaskill Warner  
Donnelly Menendez Warren  
Durbin Merkley Whitehouse  
Feinstein Mikulski Wyden  
Flake Murkowski  
Franken Murphy

## NAYS—36

Alexander Graham Paul  
Barrasso Grassley Portman  
Blunt Hatch Risch  
Burr Heller Roberts  
Chambliss Hoeven Rubio  
Coats Inhofe Scott  
Coburn Johanns Sessions  
Cochran Johnson (WI) Shelby  
Corker Kirk Thune  
Crapo Lee Toomey  
Enzi McCain Vitter  
Fischer McConnell Wicker

## NOT VOTING—6

Ayotte Isakson Moran  
Boozman Manchin Rockefeller

The PRESIDING OFFICER. On the motion to invoke cloture on Gregg Jeffrey Costa, of Texas, to be United States Circuit Judge for the Fifth Circuit, the yeas are 58, the nays are 36. The motion is agreed to.

The Republican leader.

UNANIMOUS CONSENT REQUEST—H.R. 3474

Mr. MCCONNELL. Madam President, is the next vote in order on the underlying tax extender bill?

The PRESIDING OFFICER. The next vote will be on the motion to invoke cloture on amendment No. 3060 to the tax extenders bill.

Mr. MCCONNELL. Thank you, Madam President.

The American people actually need to know what is happening in their Senate. This body exists to ensure that the citizens of this country have a say in what our government does. The Senate is supposed to be the citadel of our democracy, the place where we guarantee that no one in the country is cut out of the legislative process. The whole purpose of this body is to make sure that nobody is left out or left behind.

Yet today we have a Democratic majority that has turned this body literally on its head. Instead of preserving the Senate's prerogatives, they have systematically weakened or destroyed them all together. They have turned the Senate into a graveyard of good ideas and open democratic debate.

It is a gag order on the American people we represent. Instead of robust, freewheeling debates about the important issues of the day, we get bizarre monologues about the Democrats' latest villain.

We get silly, shameful attacks on private citizens. So in one sense it is fitting that the majority leader announced today he wants to rewrite the Constitution. I mean, at least you have to give them marks for consistency.

They are already muzzling our constituents by blocking amendments, and now they want to muzzle them even more by changing the Bill of Rights. This is completely out of control.

Even if the Democratic majority doesn't like our ideas or those of our constituents, the answer isn't to take away their constitutionally guaranteed right to speak their minds. The answer isn't to shut down their representatives' ability to influence legislation through amendments. The answer, my friends, is to come up with better arguments. The answer is to actually convince people in a free and open marketplace of ideas that you are right.

Why are Washington Democrats so afraid of a free and open exchange of ideas? What are they afraid of? Do they have that little faith in the judgment of the people we represent? Over the past few weeks we have seen just how scared our friends on the other side are of a free and open debate.

A big majority wants to repeal President Obama's medical device tax; 79 people in this body voted for it. They won't allow a vote on it.

The American people want to see a vote on the Keystone Pipeline. Most Senators say they want to vote on it too, but we are not allowed to vote on it.

We have a tax bill that Members on both sides want to improve and Members on both sides want to support. Yet we don't get a chance to amend it.

We should have certainty in our Tax Code instead of these endless expirations that only make it harder for people to prepare and for businesses to plan and to compete. They don't want to do that either. They are completely allergic—completely and totally allergic—to anything that is constructive.

What they are doing is muzzling the people of this country, a gag order on the people we were sent to the Senate to represent—all presumably to protect their power. This is really quite scandalous. The American people need to know what is happening in their Senate because this is bigger than any one bill. It is about protecting the right of the American people to have a say in what goes on in Washington.

We represent millions of people on this side of the aisle. They represent many of the people on their side of the aisle. I think there are something like 40 or so Democratic amendments pending to this bill—Democratic Senators who offered amendments to this bill who will not be heard.

This is all about protecting the one opportunity they have to shut us out. It is about a party that has become so afraid of losing its hold on power that they are willing to do just about anything to hold onto it—even if it means, as I said earlier, to try to amend the Bill of Rights.

We have a lot of smart people on the Democratic side, but I expect none of them are smarter than James Madison. Yet apparently they decided—after a couple of hundred years—Madison's work is not sufficient. They want to recommend we amend the Bill of Rights. What is before us today is not that; it is a tax extender bill.

Therefore, I ask unanimous consent that if cloture is invoked on Senate amendment No. 3060, the Wyden substitute, the amendment be considered original text for the purpose of amendment; and notwithstanding the provisions of rule XXII, it be in order for the Republican leader or his designee to offer the Toomey amendment related to the medical device tax, and that amendments then be offered in alternating fashion between the majority and the minority, with all amendments being related to tax policy.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Everyone listen. The selfpronounced guardian of gridlock just gave us his presentation. That is what the Republican leader calls himself, and that is a good name that he got for himself—the guardian of gridlock. That is what we have in the Senate. That is what we have had here for 5½ years. We have struggled through parts of it, but it has been difficult.

It is no surprise to me or to us that, of course, when something is said about the Koch brothers, there are people who run down to the floor to defend them. This time we have the Republican leader defending the Koch brothers.

What I talked about today is something so radical—listen to what it is—that we should have restrictions on how much money people can spend in political campaigns and not have the government purchased by the two richest people in America—the Koch brothers. So it is no surprise we have someone running to their rescue.

I would also suggest this. My friend, the Republican leader, wants a vote on Keystone. They had a vote. They wouldn't take it. As one of my Democratic Senators said, my friend the Republican leader is more interested in an issue than getting the pipeline done.

So here is where we are. The Republican leader has asked for alternating amendments. That is a buzzword for “we are going to continue our filibusters.”

The chairman of the Finance Committee, RON WYDEN, as the new chair—and we all have great expectations from RON WYDEN. He is an experienced legislator. He spent many years in the House, and now he is a veteran here in the Senate. He made a reasonable proposal—it was done before the world—saying: OK, you want amendments, let's do them in relation to this bill; that is, the tax extenders bill.

But I will go even a step further than that. First of all, everyone should understand that this is a bill which was done by the Finance Committee on a bipartisan basis. But if they are interested in more amendments, why don't we have Senator WYDEN and Senator HATCH see what they can come up with? And if that is good enough for me, it is good enough for my caucus.

I object.

The PRESIDING OFFICER. Objection is heard.

#### NOMINATION OF GREGG JEFFREY COSTA TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Gregg Jeffrey Costa, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

##### CLOTURE MOTION

The PRESIDING OFFICER. The Senate will resume legislative session.

There is now 2 minutes of debate.

The Senator from Oregon.

Mr. WYDEN. Madam President, I said before that I am willing to debate and have votes on amendments related to tax extenders, and we heard Senator REID essentially extend the olive branch once more. That is exactly what Senator HATCH and I did on a bipartisan basis in the Finance Committee, and I am ready and willing to do that again in the full Senate. But the Senate can't do that if action on the tax extenders bill is blocked today.

So now the Senate has the opportunity to vote against a big tax increase—actually, a bunch of big tax increases—that would slam our fragile economy hard and would punish innovators, punish our small businesses, punish homeowners who are underwater on their mortgages, punish returning veterans looking for jobs, and punish students and classroom teachers.

Colleagues, who here thinks it makes sense to tax innovation? That is what is going to happen if the tax extenders bill fails to pass today. Who here thinks it makes sense—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WYDEN. Madam President, I urge that we not let students, veterans, homeowners, and innovators be hurt today. Let's vote for cloture this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.